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SIPDIS

FOR CA/OCS/CI - ECONWAY
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SUBJECT: NEW DIRECTOR AT AUSTRIAN CENTRAL AUTHORITY FOR
HAGUE CONVENTION

REF: PHILLIPS/CI EMAIL OF NOV 3, 2005

¶1. SUMMARY: Director of the Austrian Central Authority Werner Schuetz, an architect of the Hague Child Abduction Convention, will retire shortly. He is replaced by a judge with a far different background. Post offers suggestions on how we might seize this opportunity to change the dynamics with his new office. END SUMMARY

¶2. On December 1, Werner Schuetz will retire from the Austrian Ministry of Justice (MOJ). He has been the first and only head of the Austrian Central Authority (ACA) for the Hague Convention on the Civil Aspects of International Child Abduction since Austria acceded to the Convention in 1988.

¶3. A career bureaucrat with the MOJ, Schuetz considered himself one of the godfathers of the Convention, having been a major contributor to its establishment. Nonetheless, he took a strict legalistic approach to interpreting the Convention. Working with virtually no support staff, he did not adopt a caseworker approach to incoming applications. He rather saw the ACA's role as simply certifying that a case met minimal standards before forwarding it to the responsible court for action. Although he eventually helped write legislation strengthening the GOA's Hague implementation, he sometimes seemed to take any criticism of Austrian implementation as a personal affront.

¶4. The new director, Robert Fucik, is from a younger generation, with a different background. He comes to the ACA from outside the federal judicial branch. He is currently at the Vienna State Superior Court, where he has been a judge for seven years. He is a frequently-published author of legal articles and lectures on family law topics for judges-in-training, attorneys, and others interested in family law. He is described as "open" and "fair minded" but some observers do not believe he will stay long in the position - certainly not as long as Schuetz's twenty-five years in the civil law department of the MOJ.

¶5. Embassy Comment: Judges in Austria generally see themselves as mediators rather than impartial seekers of truth. They question witnesses and suggest resolutions, even as they have little power to force litigants to comply with their rulings. While this can make them appear less "distant" than U.S. judges, they are even more fierce on the independence of the judiciary than American jurists. End Comment.

¶6. Post has provided CA/OCS/CI with suggestions for a Fresh Start approach, including a letter of welcome from Consular A/S Harty, a visit by senior CI representative in early 2006, and an invitation to an appropriate meeting or conference in Washington in Spring 2006. We would also think it appropriate to provide Fucik with materials describing how the U.S. CA functions and how CI works with judges, in particular, in order to perhaps provide a view of how the ACA might evolve.

Van Voorst